

HOUSE BILL 1090

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By: **Delegates Hucker, Cullison, Hubbard, and Tarrant**

Introduced and read first time: February 10, 2012

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health – Palliative Care – Services and Education**

3 FOR the purpose of requiring certain hospitals to implement a palliative care program
4 on or before a certain date; requiring the palliative care programs to provide
5 and facilitate access to certain information and palliative care services and to
6 implement certain policies and procedures; requiring certain health care
7 providers to provide certain information and counseling about palliative care
8 options to certain patients and proxy decision makers under certain
9 circumstances; requiring counseling regarding palliative care to include certain
10 information; authorizing counseling regarding palliative care to include certain
11 discussions; providing that counseling regarding palliative care may occur over
12 a series of meetings with a health care provider or other counseling provider;
13 authorizing a health care provider or other counseling provider to encourage the
14 patient or proxy decision maker to include certain individuals in counseling;
15 requiring certain health care providers to make a certain referral and provide a
16 patient or proxy decision maker with certain information under certain
17 circumstances; establishing a Statewide Palliative Care Education Program in
18 the Department of Health and Mental Hygiene; providing for the purpose of the
19 Program; requiring the Department to publish certain information regarding
20 palliative care on its Web site; authorizing the Department to develop and
21 implement certain initiatives regarding palliative care education and services
22 that the Department determines further certain purposes; defining certain
23 terms; and generally relating to palliative care services and education.

24 BY adding to

25 Article – Health – General

26 Section 19–2401 through 19–2404 to be under the new subtitle “Subtitle 24.
27 Palliative Care”

28 Annotated Code of Maryland

29 (2009 Replacement Volume and 2011 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Health – General**

4 **SUBTITLE 24. PALLIATIVE CARE.**

5 **19-2401.**

6 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (B) “CHRONIC OR SERIOUS CONDITION OR ILLNESS” MEANS A MEDICAL
9 CONDITION THAT:

10 (1) CAUSES SIGNIFICANT FUNCTIONAL AND QUALITY OF LIFE
11 IMPAIRMENTS THAT ARE NOT LIKELY TO BE REVERSIBLE BY CURATIVE
12 THERAPIES;

13 (2) IS LIKELY TO PROGRESS OVER TIME; AND

14 (3) MAY ULTIMATELY CONTRIBUTE TO THE PHYSIOLOGICAL AND
15 FUNCTIONAL DECLINE AND SHORTENED SURVIVAL OF AN INDIVIDUAL.

16 (C) “DISEASE-TARGETED TREATMENT” MEANS TREATMENT DIRECTED
17 AT THE UNDERLYING DISEASE OR CONDITION THAT IS INTENDED TO ALTER THE
18 PROGRESSION OF THE DISEASE OR CONDITION, REGARDLESS OF WHETHER A
19 CURE IS POSSIBLE.

20 (D) “HEALTH CARE PROVIDER” MEANS:

21 (1) A LICENSED PHYSICIAN;

22 (2) A CERTIFIED NURSE PRACTITIONER; OR

23 (3) A CERTIFIED PHYSICIAN ASSISTANT.

24 (E) “PALLIATIVE CARE” MEANS MEDICAL TREATMENT OR
25 INTERDISCIPLINARY CARE PROVIDED TO A PATIENT OR CONSULTATION
26 PROVIDED TO A PATIENT, A PROXY, OR A RELATIVE OR FRIEND OF THE PATIENT
27 THAT IS INTENDED TO PREVENT OR ALLEVIATE SYMPTOMS, PAIN, AND
28 SUFFERING AND ENHANCE THE PATIENT’S QUALITY OF LIFE.

1 **(F) “PROXY” MEANS AN INDIVIDUAL LEGALLY AUTHORIZED TO MAKE**
2 **HEALTH CARE DECISIONS FOR A PATIENT.**

3 **19-2402.**

4 **(A) THIS SECTION APPLIES TO HOSPITALS THAT HAVE 50 OR MORE**
5 **BEDS.**

6 **(B) ON OR BEFORE JANUARY 1, 2016, EACH HOSPITAL SHALL**
7 **IMPLEMENT A PALLIATIVE CARE PROGRAM THAT MEETS THE REQUIREMENTS**
8 **OF THIS SECTION.**

9 **(C) A HOSPITAL’S PALLIATIVE CARE PROGRAM SHALL:**

10 **(1) PROVIDE ACCESS TO INFORMATION AND COUNSELING**
11 **REGARDING PALLIATIVE CARE SERVICES APPROPRIATE TO A PATIENT WITH A**
12 **CHRONIC OR SERIOUS CONDITION OR ILLNESS WHO MAY BENEFIT FROM**
13 **PALLIATIVE CARE SERVICES;**

14 **(2) FACILITATE ACCESS TO APPROPRIATE PALLIATIVE CARE**
15 **CONSULTATIONS AND SERVICES INCLUDING ASSOCIATED PAIN MANAGEMENT**
16 **CONSULTATIONS AND SERVICES CONSISTENT WITH A PATIENT’S NEEDS AND**
17 **PREFERENCES; AND**

18 **(3) IMPLEMENT POLICIES AND PROCEDURES ESTABLISHED BY**
19 **THE HOSPITAL TO IDENTIFY THE PROXY OF AN INDIVIDUAL WHO LACKS**
20 **CAPACITY TO MAKE HEALTH CARE DECISIONS IN ORDER TO PROVIDE THE**
21 **PROXY ACCESS TO INFORMATION AND COUNSELING REGARDING OPTIONS FOR**
22 **PALLIATIVE CARE FOR THE PATIENT.**

23 **19-2403.**

24 **(A) WHEN A PATIENT IS DIAGNOSED WITH A CHRONIC OR SERIOUS**
25 **CONDITION OR ILLNESS, THE PHYSICIAN MAKING THE DIAGNOSIS SHALL**
26 **INFORM THE PATIENT OR PROXY THAT THE PATIENT MAY RECEIVE COUNSELING**
27 **REGARDING PALLIATIVE CARE OPTIONS THAT ARE AVAILABLE UNDER THE LAW.**

28 **(B) IF A PATIENT OR PROXY DECIDES TO RECEIVE COUNSELING**
29 **REGARDING PALLIATIVE CARE, A HEALTH CARE PROVIDER SHALL:**

30 **(1) PROVIDE THE COUNSELING; OR**

1 **(2) COMPLY WITH THE REQUIREMENTS OF SUBSECTION (F) OF**
2 **THIS SECTION.**

3 **(C) IF A PATIENT OR PROXY DECIDES TO RECEIVE COUNSELING**
4 **REGARDING PALLIATIVE CARE, THE COUNSELING SHALL INCLUDE THE**
5 **FOLLOWING INFORMATION REGARDING THE RIGHT OF THE PATIENT TO:**

6 **(1) (I) CONTINUE TO PURSUE DISEASE-TARGETED**
7 **TREATMENT WITH OR WITHOUT CONCURRENT PALLIATIVE CARE; AND**

8 **(II) RECEIVE COMPREHENSIVE PAIN AND SYMPTOM**
9 **MANAGEMENT, INCLUDING ADEQUATE PAIN MEDICATION; OR**

10 **(2) IF THE PATIENT HAS AN END-OF-LIFE CONDITION:**

11 **(I) RECEIVE COMPREHENSIVE PAIN AND SYMPTOM**
12 **MANAGEMENT AND OTHER CLINICAL TREATMENTS USEFUL WHEN A PATIENT**
13 **HAS AN END-OF-LIFE CONDITION;**

14 **(II) MAKE AN ADVANCE DIRECTIVE UNDER TITLE 5,**
15 **SUBTITLE 6 OF THIS ARTICLE;**

16 **(III) REFUSE OR WITHDRAW FROM ANY LIFE-SUSTAINING**
17 **PROCEDURE; AND**

18 **(IV) REQUEST THAT AN EMERGENCY MEDICAL SERVICES**
19 **“DO NOT RESUSCITATE” ORDER BE ENTERED INTO THE PATIENT’S MEDICAL**
20 **RECORD.**

21 **(D) COUNSELING REGARDING PALLIATIVE CARE MAY INCLUDE:**

22 **(1) DISCUSSIONS ABOUT THE DESIRED TREATMENT OUTCOMES**
23 **FOR THE PATIENT, INCLUDING SYMPTOM MANAGEMENT, BASED ON THE**
24 **PATIENT’S WISHES REGARDING THE USE OF TREATMENTS, OR IF THE PATIENT’S**
25 **WISHES ARE UNKNOWN OR UNCLEAR, BASED ON THE BEST INTERESTS OF THE**
26 **PATIENT; AND**

27 **(2) A DISCUSSION OF THE BENEFITS AND BURDENS OF**
28 **TREATMENT OPTIONS IN A MANNER THAT THE PATIENT, THE PROXY, AND THE**
29 **PATIENT’S RELATIVES AND FRIENDS CAN EASILY UNDERSTAND.**

1 **(E) (1) COUNSELING REGARDING PALLIATIVE CARE MAY OCCUR**
2 **OVER A SERIES OF MEETINGS WITH A HEALTH CARE PROVIDER OR OTHER**
3 **COUNSELING PROVIDER BASED ON THE PATIENT'S NEEDS.**

4 **(2) A HEALTH CARE PROVIDER OR OTHER COUNSELING**
5 **PROVIDER MAY ENCOURAGE THE PATIENT OR PROXY TO INCLUDE THE**
6 **PATIENT'S RELATIVES AND FRIENDS IN COUNSELING REGARDING PALLIATIVE**
7 **CARE.**

8 **(F) IF A HEALTH CARE PROVIDER DOES NOT WISH TO PROVIDE**
9 **COUNSELING REGARDING PALLIATIVE CARE, THE HEALTH CARE PROVIDER**
10 **SHALL:**

11 **(1) INFORM THE PATIENT OR PROXY THAT THE HEALTH CARE**
12 **PROVIDER DOES NOT WISH TO PROVIDE COUNSELING;**

13 **(2) REFER OR TRANSFER THE PATIENT TO ANOTHER HEALTH**
14 **CARE PROVIDER; AND**

15 **(3) PROVIDE THE PATIENT OR PROXY WITH INFORMATION ON**
16 **PROCEDURES TO TRANSFER TO ANOTHER HEALTH CARE PROVIDER.**

17 **19-2404.**

18 **(A) THERE IS A STATEWIDE PALLIATIVE CARE EDUCATION PROGRAM**
19 **IN THE DEPARTMENT.**

20 **(B) THE PURPOSE OF THE STATEWIDE PALLIATIVE CARE EDUCATION**
21 **PROGRAM IS TO MAXIMIZE THE EFFECTIVENESS OF PALLIATIVE CARE**
22 **INITIATIVES IN THE STATE TO ENSURE THAT COMPREHENSIVE AND ACCURATE**
23 **INFORMATION ABOUT PALLIATIVE CARE IS AVAILABLE TO THE PUBLIC.**

24 **(C) (1) THE DEPARTMENT SHALL PUBLISH ON ITS WEB SITE A**
25 **COMPREHENSIVE CLEARINGHOUSE OF INFORMATION ABOUT PALLIATIVE CARE.**

26 **(2) THE CLEARINGHOUSE SHALL INCLUDE RESOURCES AND**
27 **LINKS TO RESOURCES ABOUT PALLIATIVE CARE FOR INDIVIDUALS, PALLIATIVE**
28 **CARE PROVIDERS, HEALTH CARE PROVIDERS, AND HEALTH CARE FACILITIES.**

29 **(D) THE DEPARTMENT MAY DEVELOP AND IMPLEMENT ANY OTHER**
30 **INITIATIVES REGARDING PALLIATIVE CARE SERVICES AND EDUCATION THAT**
31 **THE DEPARTMENT DETERMINES WOULD FURTHER THE PURPOSES OF THIS**
32 **SUBTITLE.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2012.